

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C. (OAC) No.4397 of 2016

Balukeswar Behera & Another ***Petitioners***
Mr. S.K. Jee, Advocate
-versus-
State of Odisha and others ***Opposite Parties***
Mr. R.N. Acharya,
Standing Counsel for the School & Mass Education

CORAM:
JUSTICE M.S. RAMAN

ORDER

17.08.2022

Order No.

01. 1. This matter is taken up through virtual/physical mode.
2. The Original Application No.4397 (C) of 2016 was filed before the Odisha Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OAC) No. 4397 of 2016.
3. The Petitioners have laid challenge to the letter of Government of Odisha in School & Mass Education Department [No.SME-EL2-EL2-0003-2014-21033/SME](#), dated 21.10.2016 addressed by the Additional Secretary to Government to the Director, Elementary Education, Odisha, Bhubaneswar, wherein it is specified that:

"I am directed to invite reference to this Deptt. letter No.6000/SME, dtd.26.03.2016 and No.16070/SME, dtd.11.08.2016 on the aforesaid subject and to say that even after issue of clear instructions from this Deptt. regarding allowing RACP benefit in favour of the teachers having IACT/+2 CT qualification, some of the districts have not followed the same and allowed the Grade Pay to the teachers as per their sweet will.

In this connection, it was instructed vide this Deptt. letters cited above to follow the Cadre Rules, FD OM No.3560/F, dtd.06.02.2013 and FD OM No.1738/F,

dtd.20.01.2014 to know the eligibility of the teacher to get the 2nd RACP benefit i.e. after completion of 20 years of continuous service on or after 01.07.2014 (the date of issue of the Gezette Notification) are eligible to avail Rs.2800/- under 1st Schedule of ORSP Rules, 2008 as the benefit of 2nd RACP. They are not at all eligible to avail Rs.4200/- as 2nd RACP benefit. But, several instances have come to the notice of Govt. that some of the DEOs/BEOs have allowed Rs.4200/- in favour of IACT/+2 CT teachers who have completed 20 years of service on or after 01.07.2014. This action of DEOs/BEOs is against the Government policy and hence, illegal ab initio.

Therefore, you are requested to kindly issue instructions to all DEOs to allow the RACP benefit accordingly and to recover the amount already drawn wrongly in favour of the teachers within a month positively and submit compliance to this Deptt. failing which disciplinary proceedings will be initiated against the erring DEOs/BEOs concerned."

4. The Odisha Administrative Tribunal vide order dated 29th November, 2016 while issuing notice calling for filing of counter, passed the following interim order:-

"So far as prayer for interim relief is concerned, no consequential action pursuant to order dated 21.10.2016 under Annexure-4 till filing of counter, so far as it relates to the present applicants."

5. Mr. S.K. Jee, learned counsel for the Petitioner submits that the very same direction contained in letter dated 21st October, 2016 referred to above has been quashed by the Odisha Administrative Tribunal in O.A. No.2576 of 2016 vide order dated 24th October, 2017. The said order of the Odisha Administrative Tribunal has been under challenge by the State before this Court in W.P.(C) 7281 of 2018 in the case of ***State of Odisha and others-v- Saraswati Bhoi and others*** and W.P.(C) No.4848 of 2021 in the case of ***State of Odisha and others-v- Nilamani Behera and others***, which have come to be disposed of vide judgment dated 24th June 2022 rendered by the Division Bench of this Court.

6. It is further submitted by Mr. Jee, learned counsel for the Petitioners that since this Court in Division Bench has affirmed order of the Odisha Administrative Tribunal quashing the very same letter dated 21st October, 2016, impugned in the present writ petition, the Petitioner is entitled to the relief as claimed for.

7. In view of such submission, the writ petition is allowed in terms of the judgment of Division Bench dated 24th June, 2022 passed in W.P.(C) 7281 of 2018 in the case of ***State of Odisha and others-v- Saraswati Bhoi and others*** and W.P.(C) No.4848 of 2021 in the case of ***State of Odisha and others-v- Nilamani Behera and others***.

Issue urgent certified copy as per rules.

(M.S. Raman)
Judge

Laxmikant

